

DEC 13 2005**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT****SHAWN P. QUINLIVAN,****Plaintiff - Appellant,****v.****COUNTY OF MARIN; et al.,****Defendants - Appellees.****No. 05-15092****D.C. No. CV-04-02142-PJH****MEMORANDUM***

**Appeal from the United States District Court
for the Northern District of California
Phyllis J. Hamilton, District Judge, Presiding**

Submitted December 5, 2005**

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges.

Shawn P. Quinlivan appeals pro se the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging that various individuals deprived him of his constitutional rights during state court child custody proceedings. We have jurisdiction pursuant to 28 U.S.C. § 1291. After de novo review, *Noel v. Hall*, 341

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

F.3d 1148, 1154 (9th Cir. 2003), we affirm.

The district court correctly concluded that it lacked jurisdiction to consider Quinlivan's action, which alleged that his constitutional rights were violated by nearly every individual who participated in his state court custody action, because the relief he sought would require review of the state court judgment. *See id.* at 1158. Quinlivan's action was thus a de facto appeal of the state court proceeding, and the district court was required to "refuse to decide any issue raised in the suit that is 'inextricably intertwined' with an issue resolved by the state court." *Id.*; *see also Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 125 S.Ct. 1517, 1521-22 (2005).

Meyers' and Skelton's request for judicial notice, filed on June 22, 2005, is denied. Quinlivan's August 5, 2005, motion to strike Meyers' and Skelton's request for judicial notice, and motion to strike the brief or portions of the brief filed by Marin County are denied.

Quinlivan's request for judicial notice, filed on July 11, 2005, is granted.

Quinlivan's motion to file an oversized reply brief, filed on August 22, 2005, is granted. The Clerk shall file Quinlivan's reply brief, received on August 5, 2005.

AFFIRMED.